

**Implementation Procedures - FERC Standards of Conduct for Transmission Providers
(18 C.F.R. Part 358)**

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Authority:	Chief Compliance Officer - SOC		

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1.0 Introduction

This document describes the procedures (“Implementation Procedures”) of Basin Electric Power Cooperative (“Basin Electric”) to implement the Federal Energy Regulatory Commission (“FERC”) Standards of Conduct for Transmission Providers (“Standards of Conduct”) as set forth in 18 C.F.R Part 358. The Implementation Procedures function as an employee reference guide and reflect the Basin Electric commitment to comply with the FERC Standards of Conduct.

The Standards of Conduct apply to public utilities that own, operate or control transmission facilities and conduct transmission transactions with an affiliate that engages in marketing functions (“Transmission Providers”).

Basin Electric is a not-for-profit generation and transmission (“G&T”) electric cooperative headquartered in Bismarck, ND. Basin Electric owns, operates, and maintains more than 5,000 MW of electric generation and owns and maintains more than 2,400 miles of high-voltage transmission facilities to serve 3.0 million consumers, within 141 member systems, in eleven membership districts, and nine states (North Dakota, South Dakota, Minnesota, Iowa, Montana, Wyoming, Nebraska, Colorado, and New Mexico). Within the eastern interconnected transmission system (“Eastern Interconnection”), Basin Electric is a member of the Southwest Power Pool (“SPP”) Regional Transmission Organization (“RTO”). Transmission Service over the Basin Electric transmission facilities located in the Eastern Interconnection is governed by the SPP Open Access Transmission Tariff (“SPP Tariff”). Within the western interconnected transmission system (“Western Interconnection”), Transmission Service over the Basin Electric transmission facilities is governed by the Basin Electric West Side Missouri Basin Power Project Open Access Transmission Tariff (“West-Side Tariff”) and the Common Use System Open Access Transmission Tariff (“CUS Tariff”). Basin Electric does not own, operate, or control an interstate gas pipeline. For the purposes of the Standards of Conduct, Basin Electric is a Transmission Provider.

As a Transmission Provider, absent a waiver from FERC, Basin Electric must comply with the Standards of Conduct. Basin Electric prepared these Implementation Procedures to comply with the Standards of Conduct.

2.0 Compliance Team and Policy

2.1 Compliance Team

Mark Foss is the Basin Electric Chief Compliance Officer for the Standards of Conduct (“SOC Compliance Officer”). Dave Rudolph is the Assistant Compliance Officer for Standards of Conduct. Together, they comprise the Basin Electric Compliance Team.

The Compliance Team is responsible for the Basin Electric Standards of Conduct compliance, including overseeing implementation and enforcement of these Implementation Procedures, and monitoring and responding to internal employee inquiries. The SOC Compliance Officer may delegate such roles to others as may be appropriate. Questions and concerns about interpretations or application of the Standards of Conduct policy and procedure should be directed to a member of the Compliance Team.

The Compliance Team can be reached at:

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2.2 Compliance Policy

It is the policy of Basin Electric to comply with the Standards of Conduct, as well as other applicable federal and state codes and standards. As a Basin Electric employee, it is your responsibility to review these Implementation Procedures and the Standards of Conduct, and to understand your responsibilities under the Standards of Conduct. If you have a question or need help interpreting the Standards of Conduct, please contact your supervisor or the SOC Compliance Officer. Every Basin Electric employee, regardless of employment status, is expected, and has a continuing responsibility, to comply with these Implementation Procedures and the Standards of Conduct in every decision made and in every action taken in the conduct of Basin Electric business.

2.3 Obligation to Report

Any employee who knows of or suspects a violation or possible violation of these Compliance Procedures or the Standards of Conduct is required to report such matters immediately to the employee's supervisor or a member of the Compliance Team. Alternatively, you can report it to a company officer or the Basin Electric Human Resources Department. If you are uncomfortable contacting a Compliance Team member, your supervisor, a company officer, or Human Resources, you may call the Basin Electric Compliance Team at 1-701-557-4440 or 1-701-557-5722.

2.4 Prohibition Against Retaliation

No employee will be discharged, threatened or otherwise discriminated against, or retaliated against, because the employee, or a person acting on behalf of the employee, makes a good-faith disclosure concerning any actual or potential violation of the Standards of Conduct.

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2.5 Consequences for Violating Standards of Conduct or Compliance Procedures

Violations of the Standards of Conduct can have serious consequences for Basin Electric. Any employee who is found to have willfully violated the Standards of Conduct and/or knowingly failed to report a violation will be subject to discipline up to and including discharge.

3.0 Definitions

Affiliate:

- (1) Another person that controls, is controlled by or is under common control with, the specified entity. An affiliate includes a division of the specified entity that operates as a functional unit. 18 C.F.R. § 358.3(a)(1).
- (2) For any exempt wholesale generator (as defined under 18 C.F.R. § 366.1), affiliate shall have the meaning set forth in 18 C.F.R. § 366.1, or any successor provision. 18 C.F.R. § 358.3(a)(2).
- (3) "Control" as used in this definition means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to direct the management policies of an entity. A voting interest of 10 percent or more creates a rebuttable presumption of control. 18 C.F.R. § 358.3(a)(3).

Internet Web site: The Internet location where a public utility posts the information, by electronic means, required under 18 C.F.R. Part 358. 18 C.F.R. § 358.3(b). The Basin Electric Internet Web site is: <https://www.basinelectric.com/facilities/transmission/ferc-standards-conduct>

Marketing Functions: The sale for resale in interstate commerce, or the submission of offers to sell in interstate commerce, of electric energy or capacity, demand response, virtual transactions, or financial or physical transmission rights, all as subject to an exclusion for bundled retail sales, including sales of electric energy made by providers of last resort ("POLRs") acting in their POLR capacity. 18 C.F.R. § 358.3(c).

Marketing Function Employee: An employee, contractor, consultant or agent of a transmission provider or of an affiliate of a transmission provider who actively and personally engages on a day-to-day basis in marketing functions. 18 C.F.R. § 358.3(d).

Open Access Same Time Information System ("OASIS"): The Internet location where a public utility posts the information required by 18 C.F.R. Part 37, and where it may also post the information required to be posted on its Internet Web site by 18 C.F.R. Part 358. 18 C.F.R. § 358.3(e).

Transmission: Electric transmission, network or point-to-point service, ancillary services or other methods of electric transmission, or the interconnection with jurisdictional transmission facilities, under 18 C.F.R. Part 35. 18 C.F.R. § 358.3(f).

Transmission Customer: Any eligible customer, shipper or designated agent that can or does execute a transmission service agreement or can or does receive transmission service, including all persons who have pending requests for transmission service or for information regarding transmission. 18 C.F.R. § 358.3(g).

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Transmission Functions: The planning, directing, organizing or carrying out of day-to-day transmission operations, including the granting and denying of transmission service requests. 18 C.F.R. § 358.3(h).

Transmission Function Employee: An employee, contractor, consultant or agent of a transmission provider who actively and personally engages on a day-to-day basis in transmission functions. 18 C.F.R. § 358.3(i).

Transmission Function Information: Information relating to transmission functions. 18 C.F.R. § 358.3(j).

Transmission Provider: Any public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce. 18 C.F.R. § 358.3(k).

Transmission Service: The provision of any transmission as defined in 18 C.F.R. § 358.3(f). 18 C.F.R. § 358.3(l).

Waiver: The determination by a transmission provider, if authorized by its tariff, to waive any provisions of its tariff for a given entity. 18 C.F.R. § 358.3(m).

4.0 Standards of Conduct Procedures

4.1 Non-discrimination requirements (18 C.F.R. §358.4)

(a) A transmission provider must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if the tariff provisions do not permit the use of discretion.

(b) A transmission provider must apply all tariff provisions relating to the sale or purchase of open access transmission service in a fair and impartial manner that treats all transmission customers in a not unduly discriminatory manner, if the tariff provisions permit the use of discretion.

(c) A transmission provider may not, through its tariffs or otherwise, give undue preference to any person in matters relating to the sale or purchase of transmission service (including, but not limited to, issues of price, curtailments, scheduling, priority, ancillary services, or balancing).

(d) A transmission provider must process all similar requests for transmission in the same manner and within the same period of time.

Basin Electric has placed its Transmission facilities under the SPP Tariff, CUS Tariff and West-Side Tariff and does not administer these tariffs. To the extent Basin Electric takes any role in implementing these Tariffs, Basin Electric will apply all tariff provisions in a non-discriminatory manner, and will process all similar requests for transmission and interconnection in the same manner and within the same period of time. Basin Electric will not give any undue preference or advantage to any person in matters relating to the sale or purchase of transmission service.

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4.2 Independent functioning rule (18 C.F.R. §358.5)

(a) *General rule.* Except as permitted in this part or otherwise permitted by Commission order, a transmission provider's transmission function employees must function independently of its marketing function employees.

(b) *Separation of functions.*

(1) A transmission provider is prohibited from permitting its marketing function employees to:

(i) Conduct transmission functions; or

(ii) Have access to the system control center or similar facilities used for transmission operations that differs in any way from the access available to other transmission customers.

(2) A transmission provider is prohibited from permitting its transmission function employees to conduct marketing functions.

The Basin Electric Transmission Function Employees will function independently from the Basin Electric Marketing Function Employees. The Basin Electric Marketing Function Employees will not conduct Transmission Function activities or have access to the Basin Electric control center or similar facilities used for transmission operations that differs in any way from the access available to other Transmission Customers. The Basin Electric Transmission Function Employees will not conduct Marketing Function activities.

The Basin Electric SOC Chief Compliance Officer will determine whether an employee is considered a Transmission Function Employee or a Marketing Function Employee based on that employee's day-to-day responsibilities. The Human Resources Department shall notify the Compliance Team of any change in the Marketing Function Employees and Basin Electric management will notify a member of the Compliance Team prior to any reorganization of a department that could impact classifications of employees. The Compliance Team will update the list of Marketing and Transmission Function Employees within seven business days of receiving a notification. The Human Resources Department and the Compliance Team will review the list not less than annually and will consult with each other concerning any required changes to the list.

Transmission Function Employees will work in a secured area. Marketing Function Employees will not have access to the space where Transmission Function Employees customarily work.

Notwithstanding these requirements, in emergency circumstances affecting system reliability, Transmission Function Employees and Marketing Function Employees may take whatever steps or actions are necessary to keep the transmission system operational. In the event of any deviation from the Independent Functioning Rule, the supervisor who authorized the deviation shall notify a member of the Compliance Team as soon as possible of the circumstances of the deviation.

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4.3 No conduit rule (18 C.F.R. §358.6)

(a) A transmission provider is prohibited from using anyone as a conduit for the disclosure of non-public transmission function information to its marketing function employees.

(b) An employee, contractor, consultant or agent of a transmission provider, and an employee, contractor, consultant or agent of an affiliate of a transmission provider that is engaged in marketing functions, is prohibited from disclosing non-public transmission function information to any of the transmission provider's marketing function employees.

Except as provided in 18 C.F.R. §§ 358.7(b), (c) and (h), Basin Electric employees, contractors, consultants and agents may not disclose non-public Transmission Function Information to any of the Basin Electric Marketing Function Employees and may not use any person as a conduit for disclosing such information to the Basin Electric Marketing Function Employees.

Basin Electric Marketing Function Employees shall rely on the public internet, OASIS or other means available to the general public to obtain information regarding Transmission Function Information unless otherwise authorized by the Standards of Conduct rules. Basin Electric Marketing Function Employees shall be restricted through the use of "firewalls" and other lockout methods from obtaining non-public Transmission Function Information.

4.4 Transparency rule (18 C.F.R. §358.7)

(a) Contemporaneous disclosure.

(1) If a transmission provider discloses non-public transmission function Information, other than information identified in paragraph (a)(2) of this section, in a manner contrary to the requirements of §358.6, the transmission provider must immediately post the information that was disclosed on its Internet Web site.

(2) If a transmission provider discloses, in a manner contrary to the requirements of §358.6, non-public transmission customer information, critical energy infrastructure information ("CEII") as defined in §388.113(c)(1) of this chapter or any successor provision, or any other information that the Commission by law has determined is to be subject to limited dissemination, the transmission provider must immediately post notice on its Web site that the information was disclosed.

If any information must be posted under 18 C.F.R. § 358.7, it will be posted on the Basin Electric Internet Web site. If a Basin Electric employee, contractor, consultant or agent discloses or obtains knowledge of a disclosure or alleged disclosure of non-public Transmission Function Information contrary to the Standards of Conduct rules, he or she shall immediately notify a member of the Compliance Team. The SOC Chief Compliance Officer will conduct, or cause the conduct of, an investigation regarding the alleged disclosure and take the appropriate actions in response to his or her findings, including posting disclosed information on the Basin Electric Internet Web site if appropriate.

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(b) Exclusion for specific transaction information. A transmission provider's transmission function employee may discuss with its marketing function employee a specific request for transmission service submitted by the marketing function employee. The transmission provider is not required to contemporaneously disclose information otherwise covered by §358.6 if the information relates solely to a marketing function employee's specific request for transmission service.

Basin Electric Transmission Function Employees may discuss with its Marketing Function Employees a specific request for transmission service submitted by the Marketing Function Employee. Any non-public Transmission Function Information that is disclosed to the Marketing Function Employee pursuant to this exception need not be posted on the Basin Electric Internet Web site.

(c) Voluntary consent provision. A transmission customer may voluntarily consent, in writing, to allow the transmission provider to disclose the transmission customer's non-public information to the transmission provider's marketing function employees. If the transmission customer authorizes the transmission provider to disclose its information to marketing function employees, the transmission provider must post notice on its Internet Web site of that consent along with a statement that it did not provide any preferences, either operational or rate-related, in exchange for that voluntary consent.

Basin Electric has transferred functional control of its Eastern Interconnection transmission facilities to SPP and its Western Interconnection transmission facilities to Black Hills Power Corporation and the Western Area Power Administration. Those entities, as the Transmission Providers for Basin Electric, offer transmission service, including interconnection of facilities and granting and denying of transmission service over the Basin Electric transmission system, under the terms of the SPP Tariff, CUS Tariff and West-Side Tariff. As a result, Basin Electric cannot provide any operational or rate-related preferences with respect to transmission service provided under these respective tariffs.

A transmission customer may authorize disclosure of non-public customer-specific information to a Basin Electric Marketing Function Employee. Such authorization, together with a statement by Basin Electric it did not provide any operational or rate-related preference in exchange for that authorization shall be posted on the Basin Electric Internet Web site.

(d) Posting written procedures on the public Internet. A transmission provider must post on its Internet Web site current written procedures implementing the standards of conduct.

A copy of the Basin Electric Standards of Conduct Implementation Procedures is posted on the Basin Electric Internet Web site. These Implementation Procedures are designed to ensure compliance with the Standards of Conduct as amended from time-to-time and any subsequent orders or regulations FERC may issue with respect to the Standards of Conduct. These Implementation Procedures are updated as necessary and the posting of the Implementation Procedures on the Basin Electric Internet Web site is also updated accordingly. Reading the Implementation Procedures is not a substitute for training for designated

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employees who are required to complete Standards of Conduct training described in the Implementation Procedures. These Implementation Procedures cannot anticipate every situation. Employees should seek guidance from their supervisors or the Basin Electric Compliance Team when questions arise.

(e) Identification of affiliate information on the public Internet.

(1) A transmission provider must post on its Internet Web site the names and addresses of all its affiliates that employ or retain marketing function employees.

(2) A transmission provider must post on its Internet Web site a complete list of the employee-staffed facilities shared by any of the transmission provider's transmission function employees and marketing function employees. The list must include the types of facilities shared and the addresses of the facilities.

(3) The transmission provider must post information concerning potential merger partners as affiliates that may employ or retain marketing function employees, within seven days after the potential merger is announced.

Basin Electric Affiliates employing or retaining Marketing Function Employees are listed in a separate posting on the Basin Electric Internet Web site.

Basin Electric facilities where both Transmission Function Employees and Marketing Function Employees customarily work are listed in a separate posting on the Basin Electric Internet Web site.

Basin Electric will post information on the Internet Web site concerning potential merger partners as affiliates that may employ or retain marketing function employees within seven days after the potential merger is announced.

Basin Electric posts and maintains on the Basin Electric Internet Web site the information required by 18 C.F.R. § 358.6(e).

(f) Identification of employee information on the public Internet.

(1) A transmission provider must post on its Internet Web site the job titles and job descriptions of its transmission function employees.

(2) A transmission provider must post a notice on its Internet Web site of any transfer of a transmission function employee to a position as a marketing function employee, or any transfer of a marketing function employee to a position as a transmission function employee. The information posted under this section must remain on its Internet Web site for 90 days. No such job transfer may be used as a means to circumvent any provision of this part. The information to be posted must include:

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- (i) The name of the transferring employee,
- (ii) The respective titles held while performing each function (*i.e.*, as a transmission function employee and as a marketing function employee), and
- (iii) The effective date of the transfer.

Basin Electric will post on its Internet Web site a list of the job titles and job descriptions of Basin Electric Transmission Function Employees.

Basin Electric will not allow the transfer of any Transmission Function Employee to a position as a Marketing Function Employee, or vice versa, as a means to circumvent the Standards of Conduct. The Human Resources Department shall notify the Compliance Team of any employee transfers between the Transmission Function and the Marketing Function.

Basin Electric posts and maintains on the Basin Electric Internet Web site the information required by 18 C.F.R. § 358.6(f).

(g) Timing and general requirements of postings on the public Internet.

(1) A transmission provider must update on its Internet Web site the information required by this part 358 within seven business days of any change, and post the date on which the information was updated. A public utility may also post the information required to be posted under Part 358 on its OASIS, but is not required to do so.

(2) In the event an emergency, such as an earthquake, flood, fire or hurricane, severely disrupts a transmission provider's normal business operations, the posting requirements in this part may be suspended by the transmission provider. If the disruption lasts longer than one month, the transmission provider must so notify the Commission and may seek a further exemption from the posting requirements.

(3) All Internet Web site postings required by this part must be sufficiently prominent as to be readily accessible.

Basin Electric posts and maintains on the Basin Electric Internet Web site the information required by 18 C.F.R. Part 358 within seven business days of any change and will post the date on which the information was updated. Emergency suspension of the posting requirements must be approved by the SOC Chief Compliance Officer. The SOC Chief Compliance Officer is responsible for notifying FERC if Basin Electric anticipates that the suspension will exceed one month.

(h) Exclusion for and recordation of certain information exchanges.

(1) Notwithstanding the requirements of §§ 358.5(a) and 358.6, a transmission provider's transmission function employees and marketing function employees may exchange certain non-public transmission function information, as delineated in § 358.7(h)(2), in which case the transmission provider must make

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and retain a contemporaneous record of all such exchanges except in emergency circumstances, in which case a record must be made of the exchange as soon as practicable after the fact. The transmission provider shall make the record available to the Commission upon request. The record may consist of hand-written or typed notes, electronic records such as e-mails and text messages, recorded telephone exchanges, and the like, and must be retained for a period of five years.

(2) The non-public information subject to the exclusion in §358.7(h)(1) is as follows:

- (i) Information pertaining to compliance with Reliability Standards approved by the Commission, and
- (ii) Information necessary to maintain or restore operation of the transmission system or generating units, or that may affect the dispatch of generating units.

Basin Electric Transmission Function Employees and Marketing Function Employees may exchange non-public Transmission Function Information that: (1) is related to compliance with reliability standards; (2) is necessary to maintain or restore operation of the transmission system or generating units; or (3) may affect generating dispatch. The exchange must be recorded by contemporaneous handwritten notes, e-mails, recorded telephone lines or similar means and retained for five years.

(i) Posting of waivers. A transmission provider must post on its Internet Web site notice of each waiver of a tariff provision that it grants in favor of an affiliate, unless such waiver has been approved by the Commission. The posting must be made within one business day of the act of a waiver. The transmission provider must also maintain a log of the acts of waiver, and must make it available to the Commission upon request. The records must be kept for a period of five years from the date of each act of waiver.

Basin Electric has transferred functional control of its Eastern Interconnection transmission facilities to SPP and its Western Interconnection transmission facilities to Black Hills Power Corporation and the Western Area Power Administration. Those entities, as the Transmission Providers for Basin Electric, offer transmission service, including interconnection of facilities and granting and denying of transmission service over the Basin Electric transmission system, under the terms of the SPP Tariff, CUS Tariff and West-Side Tariff. Any waiver Basin Electric grants will be posted on the Basin Electric Internet Web site. The employee granting such a waiver must notify a Compliance Team member before the waiver is granted so the appropriate posting can be made. The SOC Chief Compliance Officer will ensure that a record of any such waivers is retained for a period of five years from the date of the waiver.

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4.5 Implementation requirements (18 C.F.R. §358.8)

(a) Effective date. A transmission provider must be in full compliance with the standards of conduct on the date it commences transmission transactions with an affiliate that engages in marketing functions.

Basin Electric voluntarily complies with the Standards of Conduct.

(b) Compliance measures and written procedures.

(1) A transmission provider must implement measures to ensure that the requirements of §§ 358.5 and 358.6 are observed by its employees and by the employees of its affiliates.

(2) A transmission provider must distribute the written procedures referred to in § 358.7(d) to all its transmission function employees, marketing function employees, officers, directors, supervisory employees, and any other employees likely to become privy to transmission function information.

Basin Electric implemented these Implementation Procedures to ensure that the requirements of 18 C.F.R. § 358.5 (the Independent Functioning Rule) and 18 C.F.R. § 358.6 (the No Conduit Rule) as well as the other requirements of 18 C.F.R. Part 358 are observed by the employees, contractors, consultants and agents of Basin Electric and any Affiliates. The SOC Chief Compliance Officer shall ensure a copy of the current version of the Implementation Procedures is distributed to each person specified in 18 C.F.R. § 358.8(b)(2) not less than once each year. Such distribution may occur in person or by e-mail.

(c) Training and compliance personnel.

(1) A transmission provider must provide annual training on the standards of conduct to all the employees listed in paragraph (b)(2) of this section. The transmission provider must provide training on the standards of conduct to new employees in the categories listed in paragraph (b)(2) of this section, within the first 30 days of their employment. The transmission provider must require each employee who has taken the training to certify electronically or in writing that s/he has completed the training.

(2) A transmission provider must designate a Chief Compliance Officer who will be responsible for standards of conduct compliance. The transmission provider must post the name of the Chief Compliance Officer and provide his or her contact information on its Internet Web site.

Basin Electric will conduct training on the Standards of Conduct for all persons specified in 18 C.F.R. § 358.8(b)(2) at least once per calendar year. A member of the Compliance Team will notify those persons of the dates and times for training. Each person who has received training will be required to certify that he or she has taken the training. The Compliance Team will maintain a list of all persons who have received training and will review the list periodically to ensure that all required training has been completed.



Within 15 days after the hiring of new employees or the transfer of personnel within Basin Electric, Human Resources shall provide the Compliance Team such employees' names and job functions. A member of the Compliance Team shall review the information about the new and transferred employees and determine which employees must receive Standards of Conduct training. The SOC Chief Compliance Officer shall ensure that any required Standards of Conduct training for new or transferred employees is completed no later than 30 days after the commencement of employment or the effective date of the transfer.

The Compliance Team will coordinate the annual training programs and procedures and will review and revise existing Standards of Conduct training material as necessary to conform with any changes to the Standards of Conduct reflected in additional FERC orders and revisions to the Standards of Conduct. The SOC Chief Compliance Officer will maintain training records and completed Employee Certifications Regarding the Standards of Conduct Training.

The contact information for the SOC Chief Compliance Officer and Assistant SOC Compliance Officer is listed in Section 2.0 above.

(d) Books and records. A transmission provider must maintain its books of account and records (as prescribed under parts 101, 125, 201 and 225 of this chapter) separately from those of its affiliates that employ or retain marketing function employees, and these must be available for Commission inspections.

Basin Electric maintains its books of account and separately from those of its affiliates that employ or retain Marketing Function Employees. These books and records are available to FERC for inspections.



Appendix A: Revision History

Revision	Effective Date	Author	Description
4.0	12/03/2018	Dave Rudolph	Annual update to FERC SOC Implementation Procedures.
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2.0	12/30/2016	Dave Rudolph	Annual update to FERC SOC Implementation Procedures.
1.0	09/30/2015	Dave Rudolph	Major update to the Basin Electric Implementation Procedures - FERC Standards of Conduct for Transmission Providers.



FERC SOC Implementation Procedure

Adobe Sign Document History

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